

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

ANDRE RENE LEVESQUE,

Plaintiff,

-v-

8:25-CV-104 (AJB/ML)

U.S.A. *et al.*,

Defendants.

APPEARANCES:

ANDRE RENE LEVESQUE
Plaintiff, Pro Se
35A Smithfield Blvd., #149
Plattsburgh, NY 12901

OF COUNSEL:

Hon. Anthony Brindisi, U.S. District Judge:

ORDER ON REPORT & RECOMMENDATION

On January 21, 2025, *pro se* plaintiff Andre Rene Levesque (“plaintiff”) filed this action against defendants United States of America and the New York Food and Drug Administration. Dkt. No. 1. The case was initially closed because plaintiff failed to pay the filing fee or submit an application to proceed without doing so, Dkt. No. 2, but plaintiff soon filed a motion for leave to proceed *in forma pauperis* (“IFP Application”), Dkt. No. 3, the Clerk reopened the file for an initial review, Dkt. No. 4, and the matter was reassigned to this Court, Dkt. No. 5.

On April 28, 2025, U.S. Magistrate Judge Miroslav Lovric granted the IFP Application and, after an initial review of the pleading, advised by Report & Recommendation (“R&R”) that

plaintiff's complaint should be dismissed without leave to amend as frivolous; *i.e.*, as lacking an arguable basis in law or fact.¹ Dkt. No. 6.

As Judge Lovric explained, plaintiff's complaint was "extremely difficult to decipher" but "appears to outline various disabling conditions" that cause plaintiff severe pain. *Id.* As relief, plaintiff's complaint requested that "the court be my doctor and order [prescription drugs]" for him. *Id.*

Judge Lovric concluded that, liberally construed, plaintiff's complaint was legally and/or factually frivolous and that, even assuming it was not, the named defendants were immune from suit. *Id.* Finally, Judge Lovric determined that leave to amend would not be warranted because better pleading could not cure those defects. *Id.*

Plaintiff has not lodged objections. The time period in which to do so has expired. Dkt. No. 6. Instead, plaintiff filed a letter in which he explained that he attempted to serve defendants using the U.S. mail and that his attempt failed. Dkt. No. 7.

Plaintiff's letter sought a court order that would direct the Clerk to provide him with more forms for service. *Id.* Judge Lovric denied that request as premature in light of the pending R&R advising dismissal. Dkt. No. 8.

Upon review for clear error, Judge Lovric's R&R is accepted and will be adopted. *See* FED. R. CIV. P. 72(b).

Therefore, it is

ORDERED that

1. The Report & Recommendation (Dkt. No. 6) is ACCEPTED; and

¹ Plaintiff has filed well over a dozen *pro se* complaints in this judicial district. *See, e.g., Russian Federation ex rel. Levesque v. United States*, 2024 WL 5159621, at *1 n.1 (N.D.N.Y. Nov. 22, 2024) (Report & Recommendation) (collecting cases and noting that many of the civil actions filed by plaintiff have been dismissed as frivolous).

2. Plaintiff's complaint (Dkt. No. 1) is DISMISSED without leave to amend.

The Clerk of the Court is directed to terminate the pending motion, enter a judgment accordingly, and close the file.

IT IS SO ORDERED.

Dated: May 19, 2025
Utica, New York.


Anthony J. Brindisi
U.S. District Judge